

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:12-cr-00088-MR-DLH-1**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 ALEX DEAN NELSON,)
)
 Defendant.)
 _____)
)
 IN RE: PETITION OF JOY NELSON)
 BROOKS.)
 _____)

ORDER

THIS MATTER is before the Court on the Petition of Joy Nelson Brooks [Doc. 21] and the Government's Motion to Strike Claim [Doc. 22].

On September 24, 2012, the Court entered a Consent Order and Judgment of Forfeiture for the real property at 4640 Celia Creek Road, Lenoir, NC 28645. [Doc. 12]. Following entry of the Consent Order, on November 26, 2012, Petitioner Joy Nelson Brooks, proceeding *pro se*, filed a Petition with this Court claiming a legal interest in the property. [Doc. 21]. While the Petition is notarized, it is not signed under penalty of perjury.

A petition filed by a third party claiming interest in property which has been ordered forfeited to the United States must “be signed by the petitioner under penalty of perjury.” 21 U.S.C. § 853(n)(3). A notarized petition, which is not verified by the petitioner herself, is insufficient. See United States v. Speed Joyeros, S.A., 410 F.Supp.2d 121, 124 (E.D.N.Y. 2006). “Requiring the claimant to sign personally under penalty of perjury serves the government's legitimate interest in protecting forfeited assets.” Id. A petitioner who fails to file a verified petition lacks standing to contest a forfeiture. United States v. Loria, No. 3:08cr233-2, 2009 WL 3103771, at *2 (W.D.N.C. Sep. 21, 2009) (citing United States v. \$487,825,000 in U.S. Currency, 484 F.3d 662, 664-65 (3d Cir. 2007)).

The Court will allow Petitioner Brooks thirty (30) days from the entry of this Order in which to file an amended petition which is signed under penalty of perjury. If the Petitioner fails to file an amended petition within the time required, the Government’s Motion to Strike Claim will be granted and the Petition will be dismissed.


Accordingly, **IT IS, THEREFORE, ORDERED** that Joy Nelson Brooks shall file an amended petition, signed under penalty of perjury, within thirty (30) days of the entry of this Order. **Petitioner is advised that failure to**

file an amended petition signed under penalty of perjury will result in the dismissal of her petition.

The Clerk of Court is directed to provide copies of this Order to counsel for the Government and the *pro se* Petitioner Joy Nelson Brooks.

IT IS SO ORDERED.

Signed: December 19, 2012


Martin Reidinger
United States District Judge

